COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3304-03
Bill No.: Perfected HCS for HB 1278
Subject: Insurance - General; Insurance - Property; Insurance Dept.
Type: Original
Date: March 30, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue	$0 to ($10,620,676)	$0 to ($10,620,676)	$0 to ($10,620,676)
Total Estimated Net Effect on General Revenue Fund*	**$0 to ($10,620,676)**	**$0 to ($10,620,676)**	**$0 to ($10,620,676)**

*** Does not include unknown savings from subrogation of claims. May exceed $100,000.**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 20 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Insurance Dedicated	$7,850	$0	$0
County Foreign Insurance**	$0	$0	$0
Insurance Examiners**	$0	$0	$0
Highway	Unknown	Unknown	Unknown
Other	Unknown	Unknown	Unknown
Merchandising Practices Revolving	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on All State Funds*	**$7,850***	**$0***	**$0***

***Does not include unknown savings resulting from subrogation of claims. May exceed $100,000 annually. Does not include unknown loss from Merchandising Practices Revolving Fund.**
**** Savings and losses net to $0.**

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Federal	Unknown	Unknown	Unknown
Total Estimated Net Effect on All Federal Funds***	**Unknown**	**Unknown**	**Unknown**

***** May exceed $100,000.**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government*	**$0 to ($11,000,000)**	**$0 to ($11,000,000)**	**$0 to ($11,000,000)**

*** Does not include unknown savings resulting from subrogation of claims. May exceed $100,000 annually.**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator, Office of Administration (COA) - Division of Risk Management/General Services, COA - Division of Accounting, Department of Public Safety (DPS) - Missouri State Water Patrol, Department of Mental Health, Department of Labor and Industrial Relations, Department of Health and Senior Services, Missouri Department of Conservation** and **Department of Revenue** assume the proposal will have no fiscal impact on their organizations.

Officials from the **DPS - Missouri State Highway Patrol** defer to the Missouri Department of Transportation for response regarding the fiscal impact of the proposal on their organization.

Officials from the **Missouri Department of Transportation (DOT)** provide the following assumptions regarding the proposal:

The proposal makes changes to the statutes adding Section 375.246 which allows credit for reinsurance for domestic ceding insurers. This will not have an impact on MHTC or the Highway and Patrol Medical Plan.

It also makes changes to the Missouri Property and Casualty Insurance Guaranty Association and does not pertain to health insurance.

It establishes coverage similar to the Health Insurance Portability Accountability Act (HIPAA) and health pool and small employer coverage. While this proposal places certain eligibility requirements on health insurance issuer, the Highway/Patrol Medical Plan does not fall within the definition of health insurance carrier. The Highway and Patrol Medical Plan does; however, follow the general HIPAA laws relative to eligibility for allowing coverage for members who were not enrolled but have lost coverage. This portion of the legislation will not have an impact on MHTC or the Medical Plan.

ASSUMPTION (continued)

The proposal allows public entities which provide a self-insured medical plan to its employees or other persons covered under the plan to require reimbursement of any medical claims by the public entity's self-insured plan for which there was third-party liability. In addition, the proposal permits subrogation by the public entity and allows the public entity to require assignment of the claim or cause of action.

The MHTC would be included in the definition of "public entity". Currently, Section 104.270 RSMo Supp. 2002 and Section 14.01 of the Highway and Patrol Medical Plan document requires reimbursement for third party liability for medical claims paid by the Highway and Patrol Medical Plan. However, this proposal would go beyond 104.270 and 14.01 by allowing MHTC/DOT and the Highway and Patrol Medical Plan to subrogate and to require assignment.

Although this proposal does not allow DOT to receive anymore than the actual medical claims paid by the Medical Plan, the proposal would allow MHTC/DOT and the Highway and Patrol Medical Plan to file suit against a third party, without including the subscriber or member in the suit or have the covered person assign his or her claim or cause of action against the third party to the Highway and Patrol Medical Plan. As a result, this proposal could have a positive fiscal impact on the Highway and Patrol Medical Plan in situations where we are currently unable to get reimbursement of medical claims paid when our participant does not make a claim against the third party or when the participant chooses to deny continued benefits under the Highway and Patrol Medical Plan. The proposal would have no fiscal impact if the Medical Plan would receive reimbursement of all medical claims paid when a third party is involved.

Section 376.433 and House amendments # 4 and 7:

This section will give MHTC and the Medical Plan the remedies of subrogation and assignment and lien, but the proposal also may result in a reduction proportionate to the total recovery by the participant against a third party. As a result, the proposal will have a fiscal impact on the Highway and Patrol Medical Plan, because it offers more remedies for collection, but at a possible lower recovery amount than what is currently in place.

Currently, Section 104.270 RSMo Supp.2002 and Section 14.01 of the Highway and Patrol Medical Plan document requires reimbursement for third party liability for medical claims paid by the Highway and Patrol Medical Plan. However, this proposal would go beyond Section 104.270 and Section 14.0 by allowing MHTC/DOT and the Highway and Patrol Medical Plan to subrogate and to require assignment.

ASSUMPTION (continued)

Although this proposal does not allow us to receive anymore than the actual medical claims paid by the Medical Plan, the proposal would allow MHTC/DOT and the Highway and Patrol Medical Plan to file suit against a third party without including the subscriber or member in the suit or have the covered person assign his or her claim or cause of action against the third party to the Highway and Patrol Medical Plan.

As a result, this proposal could have a positive fiscal impact on the Highway and Patrol Medical Plan in situations where we are currently unable to get reimbursement of medical claims paid when our participant does not make a claim against the third party or when the participant chooses to deny continued benefits under the Highway and Patrol Medical Plan. This proposal would have no fiscal impact if the Medical Plan would receive reimbursement of all medical claims paid when a third party is involved.

The proposal requires payment of an attorney lien for expenses before payment of any lien provided by Section 208.215 and permits courts to reduce and apportion the lien proportionate to the recovery by the covered person. Further, Section 208.215, while providing a lien, would prohibit the lien being imposed against certain property. As a result, it is possible that the Medical Plan's recovery amount could be lower than what is currently in place.

Therefore, the affect of HA #4 is unknown.

If the language in House amendment #7 provides rights beyond the medical plan documents, then HA#7 would limit the public entities recovery to no more than what is allowed under the Medical Plan.

House amendment #5 will have no fiscal impact on MHTC/DOT or the highway/patrol medical plan.

House amendments # 1 and 6 will have no fiscal impact on MHTC/DOT.

Officials from the **Department of Insurance (INS)** provide the following assumptions regarding the proposal:

Section 374.160 (1) deletes examinations as an expense to be paid by the company. The State could become liable for expenses of an examination if a company refused to pay since there is not a statute reference for enforcement.

ASSUMPTION (continued)

Direct Costs
Section 374.160(3) Limits assessment to insurance companies for the cost of examination to the direct expenses incurred by examiners. Requires an itemized report including examiner pay rate and time spent by each examiner whose expenses are included. Currently, an itemized bill is sent to companies along with assessment. The INS would be required to add examiner pay rate and time spent as current itemized bill only includes total amount billed. This would require modifications to the Exam Billing System within the department. The INS estimates that modifications to the exam billing system would require 40 hours of programming time at a cost of $85.00 per hour for a total of $3,400. This would be paid from the Insurance Dedicated Fund as no Information System (IS) costs are currently funded from the examiners fund. Examiners currently submit to the INS an expense reimbursement form that verifies and attests to the direct expenses incurred by each examiner.

The INS assumes that fringe benefits for examiners would be considered a direct expense. If it were not included, an additional $1,038,000 (FY03 amount) would be lost in revenue to the Examiners Fund. If fringes are not included as a direct cost then all 82.00 FTE funded from the Examiners fund would be lost as expenditures would exceed revenues collected and the department could not continue to operate these programs. **Total FY03 direct expenditures were $5,219,329 including fringe.**

Section 374.160(5) Limits the examiners expenses when an examination is conducted in Missouri to either the actual cost or 80% of the federal per diem rate for Jefferson City, whichever is less. The 80% of the federal per diem would equal $76 per day for hotel and meal expenses. **This would result in a loss of approximately $50,000 in direct costs (FY03 actual in- state meals and lodging less estimated total under per diem).**

This limit conflicts with the state travel policy of using CONUS rate for the city in which the expenses occur. Many of the in-state examinations take place in Kansas City and St. Louis and $76 per day would not cover the cost of lodging and meals. This would hinder conducting examinations for any company not located in Jefferson City or an area with a CONUS rate at that level.

Prorated/Allocated Costs
In addition to the direct costs of examiners salaries, the INS prorates among all companies being examined the following costs:

<u>ASSUMPTION</u> (continued)

- The salary, benefits and expenses associated with 4 audit managers
- The salary, benefits and expenses associated with 1 reinsurance examiner
- Vacation and sick leave for all exam fund staff
- Continuing Education costs for all examiners
- Shipping charges
- Telephone charges
- Copier maintenance and repair charges
- Office supplies
- Computer equipment for exam fund staff
- OA cost allocation for exam fund staff (includes prorated share of costs for the Department of Revenue, Office of Administration, all Elected Offices, General Assembly and Retiree health care costs)

These costs totaled $1,730,238 in FY03 and 5 FTE and would be lost under current proposal that does not allow for prorated or allocated costs.

The 15% additional charge for supervision and support remains at 15% but the base on which it is applied is reduced. In FY03, the 15% amount totaled $1,042,594. With the changes to allow only direct expenses the base for the administrative surcharge has been reduced by $1,780,238. The reduction to the base will result in the supervision and support amount being reduced to $775,398. By allowing only direct costs to be billed and no prorated costs, the 15% would now be required to cover the cost of vacation and sick leave for the examiners ($527,208). The INS also has a number of other costs previously prorated that it would not be able to cover the cost, including: computer/IS costs for examiners which is no longer allowed ($80,000), Building rent ($41,991), Office of Administration (OA) cost allocation for exam fund ($168,680) which includes a prorated share of costs for the Department of Revenue, Office of Administration, all Elected Offices, General Assembly and Retiree health care costs. The 15% administrative cost would now be required to cover mandatory costs such as vacation and sick leave that were previously prorated among all companies being examined during the year. These costs total $817,879, so the 15% would not cover all of these costs.

The need for administrative 15% to cover the mandatory costs previously prorated will require personal service and expense reductions for the following positions previously paid from the 15%:

- 5 financial analysts
- 1 financial analyst supervisor
- 2 examination coordinators (secretaries)
- 2 legal counsels
- 1 paralegal

ASSUMPTION (continued)

Administration Percent

A total of 16 support staff would be lost. This would also eliminate legal support for these divisions that are key to collecting over $1.7 million annually in forfeitures (state school book fund) and recoveries (goes to consumers). The entire financial analysis section would be eliminated. This section reviews annual and quarterly statements for company solvency and is a critical element necessary to maintain national accreditation through the National Association of Insurance Commissioners. Without accreditation from the NAIC, Missouri domestic companies (those incorporated under Missouri law) would face financial examinations from other states in which they do business. Currently, each state that is accredited does financial examinations for their domestic companies only and other states accept those examinations as "good". Without the financial analysis section, this benefit to Missouri domestics would be lost and Missouri companies could be impacted by the cost of multiple other states coming in to do financial examinations. Without sufficient in-house staff and supervisory staff, examination reports would have to be finalized and negotiated on-site. Examiners would be able to do fewer exams because each would take longer.

	Current	**Proposed**	**Difference**
Direct costs	$5,219,329	$5,169,329	($50,000)
Prorated costs	$1,730,238	0	($1,730,238)
Admin %	$1,042,594	$775,398	($267,196)
Total	$7,992,161	$5,944,727	($2,047,434)

Total loss of revenue and reductions to the INS equal $2,047,434 and 16 FTE including all of the financial analysis section, reinsurance examiner, support staff, and legal staff. If expenses are not realized then companies are not billed and revenue is lost. This results in a net impact of zero and does not result in savings to the state for reduced expenditures.

The costs of examinations are deductible against premium tax liability. Premium tax is distributed 50/50 to GR and County Foreign or County Stock Fund. Only 20-25% of examination costs are taken as a credit each year as most companies would be required to pay retaliatory tax if they are not Missouri domestics. The INS anticipates very little change in premium tax credits taken for examination expenses.

ASSUMPTION (continued)

375.772-375.1220 - If the property & casualty guaranty fund should assess at 2% of net premiums rather than 1%, there is a possibility that premium tax deductions would be more than doubled. Prior year premium tax credits for the P&C Guaranty Association was $22 million. Range of $0-22 million increase to P&C Guaranty Association Tax Credit is estimated. Tax credit is taken against GR and County Foreign Insurance Fund.

Sections 376.421-376.986 revises laws concerning Missouri Health Pool Coverage. Legislation provides pool coverage to HIPAA eligible in lieu of the current federal HIPAA alternatives for individual health insurers, which require all individual health insurers to have at least 2 plans available to HIPAA eligible individuals. Passage of this proposal will eliminate this requirement of insurers in favor of the Missouri Health Insurance Pool being the sole source of guaranteed issue individual health insurance coverage to HIPAA eligible individuals who do not otherwise qualify under and individual health insurer's underwriting guidelines. Legislation cap rates for HIPAA eligible individuals at the lesser of the actuarial rate necessary to fund claims for HIPAA eligible individuals or 150% of the standard rate. This section is also revised to set pool rates for all other eligible persons at 150% of the standard rate. Rates at 150% of the standard rate for all eligibles will make the pool attractive for individuals who are now in the competitive market.

Section 376.975 provides that assessments paid for calendar year 2005 cannot be deducted from premium taxes payable until calendar year 2008, assessments paid for calendar year 2006 cannot be deducted until 2009, and assessments paid for calendar year 2007 cannot be deducted until 2010. This pospones the increased cost to General Revenue (GR) from premium tax credits to years outside the fiscal note estimate. The INS has not received an actuarial analysis of legislation from the MO Heath Insurance Pool, but assumes that costs in years 2008-2010 would be at a minimum those included in last years worse case fiscal estimates. This would be $26.8 million in 2008, $61.1 million in 2009 and $72.2 million in 2010. These assessment costs would be taken as a credit against the GR portion of the premium tax paid.

Section 379.110 and 379.815 will have no fiscal impact to the INS.

Section 282.210 – No fiscal impact to department

Section 384.062 – Removal of the bond requirement may impact collection of taxes due from surplus lines brokers. The INS has utilized this requirement 3 or 4 times over the past years and collected taxes that would not otherwise have been paid. The INS hasn't utilized the bonds for payment of taxes in the past year so minimal fiscal impact is estimated at this time.

ASSUMPTION (continued)

375.001 (amendment 1) Residential property policies must be rewritten to say that weather-related claims will not be used to non-renew or cancel the policy. Policy for amendments must be reviewed by the INS and accompanied by a $50.00 filing fee. This fee is deposited into the Insurance Dedicated Fund. The Department estimates that 225 insurers x $50 filing = $11,250 one-time revenue.

Officials from the **Missouri Consolidated Health Care Plan (HCP)** state the proposal would modify various insurance provisions. The proposal would also allow public entities to acquire subrogation rights under a self-insurance plan. Because events that may result in subrogated claims are unpredictable, it is very difficult to forecast the potential savings this proposal may yield.

In a February 2000 study, using the Inter Study National HMO Financial Database, the subrogation/Coordination of benefits (COB) rate for 1997 was $1.38. Employing this PMPM rate results in a 2004 HCP potential savings of $545,006 when applied to HCP's current 32,911 self-insured membership.

HCP officials note this is a rough estimate as the $1.38 PMPM figure is several years old and could be different today. The figure refers to subrogation and COB and the proposal only refers to subrogation. No updated estimates were found.

Oversight assumes some cost savings could be passed on to the State, but is unable to determine that amount. **Oversight** also assumes other public entities could experience cost savings.

Officials from the **Office of Attorney General (AGO)** assumes costs to General Revenue could be absorbed. However, the proposal reduces the civil penalties available for violations of the merchandising practices act by rental car agencies from $1,000 per violation (existing 407.100) to $50 per violation, with a $10,000 per year cap. This could result in a significant negative impact on the merchandising practices revolving fund. In addition, restitution available to defrauded consumers could be inadequate to cover actual losses.

Officials from the **Office of Administration - Division of Budget and Planning** did not respond to our request for a statement of fiscal impact.

FISCAL IMPACT - State Government	FY 2005 (10 Mo.)	FY 2006	FY 2007
GENERAL REVENUE FUND			
Savings - Reduction in cost of benefits	Unknown	Unknown	Unknown
Savings - Missouri Consolidated Health Care Plan			
Health benefit reimbursements from third party tortfeasors	Up to $379,324	Up to $379,324	Up to $379,324
Loss - Department of Insurance			
Increase in P&C Guaranty Association Premium Tax Credits	$0 to ($11,000,000)	$0 to ($11,000,000)	$0 to ($11,000,000)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND*	**$0 to ($10,620,676)**	**$0 to ($10,620,676)**	**$0 to ($10,620,676)**
INSURANCE DEDICATED FUND			
Income - Department of Insurance			
Policy form filing fees	$11,250	$0	$0
Costs - Department of Insurance			
Programming costs	($3,400)	$0	$0
ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND	**$7,850**	**$0**	**$0**

*** Does not include subrogation of claims. May exceed $100,000.**

FISCAL IMPACT - State Government	FY 2005 (10 Mo.)	FY 2006	FY 2007
COUNTY FOREIGN INSURANCE FUND			
Savings- Department of Insurance			
Reduction in Transfer-Out of P&C Guaranty Association Premium Tax Credits to School Districts	$0 to $11,000,000	$0 to $11,000,000	$0 to $11,000,000
Loss - Department of Insurance			
Increase in P&C Guaranty Association Premium Tax Credits	($0 to $11,000,000)	($0 to $11,000,000)	($0 to $11,000,000)
ESTIMATED NET EFFECT ON COUNTY FOREIGN INSURANCE FUND **	**$0**	**$0**	**$0**
INSURANCE EXAMINERS FUND			
Savings - Department of Insurance			
Costs Saved from Reduction in Exams	$2,047,434	$0	$0
Loss - Department of Insurance			
Reduction in Exam Assessments	($2,047,434)	$0	$0
ESTIMATED NET EFFECT ON INSURANCE EXAMINERS FUND**	**$0**	**$0**	**$0**
MISSOURI HIGHWAY FUND			
Savings - Health benefit reimbursements from third party tortfeasors	Unknown	Unknown	Unknown
ESTIMATED NET EFFECT ON MISSOURI HIGHWAY FUND***	**Unknown**	**Unknown**	**Unknown**

**** Savings and losses net to $0.**
***** Savings may exceed $100,000.**

FISCAL IMPACT - State Government	FY 2005 (10 Mo.)	FY 2006	FY 2007
OTHER FUNDS			
Savings - Health benefit reimbursements from third party tortfeasors	Unknown	Unknown	Unknown
ESTIMATED NET EFFECT ON OTHER FUNDS* **	**Unknown**	**Unknown**	**Unknown**
MERCHANDISING PRACTICE REVOLVING FUND			
Loss - Office of Attorney General Reduction in civil penalties	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON MERCHANDISING PRACTICE REVOLVING FUND	**(Unknown)**	**(Unknown)**	**(Unknown)**
FEDERAL FUNDS			
Savings - Health benefit reimbursements from third party tortfeasors	Unknown	Unknown	Unknown
ESTIMATED NET EFFECT ON FEDERAL FUNDS* **	**Unknown**	**Unknown**	**Unknown**

****** Savings may exceed $100,000.***

FISCAL IMPACT - Local Government	FY 2005 (10 Mo.)	FY 2006	FY 2007
POLITICAL SUBDIVISIONS			
Savings - All Political Subdivisions Health benefit reimbursements from third party tortfeasors	Unknown	Unknown	Unknown
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS* **	**Unknown**	**Unknown**	**Unknown**

***** Savings may exceed $100,000.**

FISCAL IMPACT - Local Government	FY 2005 (10 Mo.)	FY 2006	FY 2007
SCHOOL DISTRICTS			
Loss - School Districts			
Reduction in Transfer-In from the County Foreign Insurance Fund	$0 to ($11,000,000)	$0 to ($11,000,000)	$0 to ($11,000,000)
ESTIMATED NET EFFECT ON SCHOOL DISTRICTS	**$0 to ($11,000,000)**	**$0 to ($11,000,000)**	**$0 to ($11,000,000)**
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS AND SCHOOLS*	**$0 to ($11,000,000)***	**$0 to ($11,000,000)***	**$0 to ($11,000,000)***

*** Does not include unknown savings from the subrogation of claims. Savings may exceed $100,000.**

FISCAL IMPACT - Small Business

Small business insurance companies, self-insured small businesses and small business car rental companies would be impacted by this proposal

DESCRIPTION

This proposal makes changes to the laws regarding insurance.

DEPARTMENT OF INSURANCE FEES

The substitute changes the way fees are assessed to pay for expenses incurred by the Department of Insurance. The proposal:

(1) Limits the expenses that insurance companies must pay for examinations by the department. Current law allows the director to assess fees on each insurer for the examination of that insurer. The proposal limits this assessment to the direct expenses incurred by the examiners. The department must provide an itemized report of expenses which includes the rate of pay for each examiner and the amount of time spent by each examiner. The itemized reports must be verified by the insurance company before the department can issue the assessment;

DESCRIPTION (continued)

(2) Limits the reimbursement of department employees to either 80% of the federal per diem rate or the actual travel expenses incurred in conducting the examinations, whichever is less.

PROPERTY AND CASUALTY INSURANCE

The proposal amends the laws regarding the Property and Casualty Insurance Guaranty Association Act. The proposal:

(1) Expands the guaranty association's obligations for claims arising from bodily injury, sickness, or disease to include damages for pain and suffering;

(2) Adds provisions establishing the guaranty association's obligations for insurance products that have been created during the past several years; and

(3) Clarifies provisions regarding the administration of the guaranty fund to comply with the recommendations of the National Conference on Insurance Guaranty Funds.

GROUP HEALTH INSURANCE

The proposal amends the law regarding group health insurance. The proposal:

(1) Defines the terms "pre-existing condition exclusions" and "waiting period";

(2) Prohibits group health insurance issuers from establishing enrollment eligibility requirements based on health status-related factors, which include medical history and genetic information;

(3) Prohibits health insurance issuers that offer group health insurance coverage from requiring any individual, as a condition of enrollment, to pay a premium or other contribution that is greater than that made by other similarly situated individuals enrolled in the plan on the basis of health status-related factors;

(4) Requires health insurance issuers offering large group health plan coverage to renew or continue coverage in force at the option of the plan sponsor;

(5) Outlines conditions under which health insurance issuers can non-renew or discontinue group health plan coverage, particular types of large group health insurance coverage, and all large group health insurance coverage;

DESCRIPTION (continued)

(6) Permits health insurance issuers to modify coverage for a large group health plan at the time of coverage renewal; and

(7) Changes the definition of the term "placement" as it pertains to coverage of adopted children. In current law, placement means that the child is in the physical custody of the adoptive parent. The proposal changes it to mean the assumption and retention by the insured of a legal obligation for total or partial support of a child in anticipation of adoption.

MISSOURI HEALTH INSURANCE POOL

The proposal makes several changes to the laws regarding the Missouri Health Insurance Pool, known as the high-risk pool. The proposal:

(1) Adds the term "federal defined eligible individual" as it relates to the health insurance pool;

(2) Adds two members to the board of directors;

(3) Designates as eligible for pool coverage individuals who are residents of Missouri and who provide evidence of: (a) refusal by one insurer to issue substantially similar insurance for health reasons; or (b) refusal by an insurer to issue insurance except at a rate exceeding 150% of the standard risk rate;

(4) Creates a qualified plan that will comply with the federal Trade Adjustment Assistance Reform Act of 2002;

(5) Requires insurers to inform a person of the existence of the high-risk pool and how to apply for coverage when the person is affected by a change in the insurer's underwriting, such as the insurer putting new limitations on coverage or increasing premiums;

(6) Defers, for three years, the deductions from premium taxes that may be taken for high-risk pool participation assessments, starting in the 2005 tax year;

(7) Makes eligible for pool coverage persons who terminated coverage in the pool less than 12 months prior, persons on whose behalf the pool has paid out $1 million in benefits, and persons receiving treatment for drug or alcohol abuse. Under current law, these persons are ineligible for pool coverage;

(8) Allows persons who do not maintain residency in Missouri to be terminated at the end of the policy period;

DESCRIPTION (continued)

(9) Changes the percentage limit on pool rates from 200% to 150% of the rates applicable to individual standard risks; and

(10) Changes the time within which a person has to apply for pool coverage from 60 days to 63 days in order to have a waiver of pre-existing condition exclusions.

SMALL EMPLOYER HEALTH INSURANCE

The proposal amends the laws regarding the Small Employer Health Insurance Availability Act. The proposal:

(1) Adds the terms "creditable coverage," "excepted benefits," "health status-related factor," and "medical care" as they relate to the Small Employer Health Insurance Availability Act;

(2) Modifies the definition of "small employer" as it pertains to a group health plan to include political subdivisions. A small employer is one who employs two to 50 eligible employees. Under current law, a small employer has three to 25 employees;

(3) Modifies conditions under which small employer health benefit plans are not renewable;

(4) Lists conditions under which small employer carriers can discontinue a particular type of small group health benefit plan and discontinue all small employer health insurance coverage;

(5) Repeals the requirement for small employer carriers electing to non-renew all of its small employer health plans in the state to provide certain types of notice;

(6) Allows small employer carriers offering coverage through a network plan not to offer coverage to an eligible person who no longer lives or works in the service area or to a small employer who no longer has an enrollee in the plan who lives or works in the service area;

(7) Requires small employer carriers to offer all health benefit plans they actively market to small employers in the state. Current law requires small employer carriers to offer at least two health benefit plans: a basic and a standard health benefit plan;

(8) Changes the way small employer health benefit plans can define pre-existing conditions. The proposal specifies that a pregnancy existing on the effective date of coverage is not considered a pre-existing condition;

DESCRIPTION (continued)

(9) Changes the requirement that creditable coverage be continuous from 30 days prior to the effective date of new coverage to a date not less than 63 days prior to application for new coverage;

(10) Establishes cases where small employer carriers are prohibited from imposing any pre-existing condition exclusion; and

(11) Abolishes the Missouri Small Employer Reinsurance Program on December 31, 2005. The program will not take on any risk after October 1, 2004.

OTHER PROVISIONS

In other provisions regarding insurance, the proposal:

(1) Resets the sunset clause on a section of law governing the liquidation of insurance companies to January 1, 2010. This provision is currently set to expire on December 31, 2005. The provision allows an estimation of contingent liabilities to be used to fix creditors' claims during the liquidation process. It also requires a reinsurer's payment to be made directly to the liquidator, except where the contract specifically provides for another payee or where another insurer assumes the ceding insurer's policy obligations;

(2) Changes the definition of "renewal" as it applies to automobile insurance. Any automobile insurance policy with a term of less than six months or with no fixed expiration date will be considered a six-month policy. Under current law, the default term is 12 months;

(3) Repeals the bond requirement for acquiring a license to sell surplus lines of insurance;

(4) Amends the formula used to determine extraordinary dividends for shareholders in insurance holding companies; and

(5) Grants a right of subrogation to public entities that self-insure for their health care benefits when the entity pays the medical bills of the covered person and there is third-party liability. The public entity may require the covered person to assign to the public entity his or her claim or cause of action against the third party. Public entities that self-insure their health care benefits shall have the same rights, obligations and available remedies that the Department of Social Services has with the Medicaid program. Any public entity shall be prohibited from collecting more money from any third party or person who is liable for payment than the public entity is allowed to recover under the public entity's self-insurance plan.

DESCRIPTION (continued)

(6) Provides that no insurer shall use weather-related claims as a basis for the insurer's decision to refuse to renew a policy. No insurer shall consider as a claim any inquiry by the insured into whether a policy will cover a loss. No insurer shall use such inquiries as a basis for nonrenewing the policy.

(7) Makes several changes in the laws regarding car rental contracts.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Attorney General

HWC:LR:OD (12/02)

Office of Administration -
    Division of Accounting
    Division of General Services/Risk Management
Office of State Courts Administrator
Department of Mental Health
Department of Health and Senior Services
Department of Labor and Industrial Relations
Department of Revenue
Missouri Department of Transportation
Department of Public Safety -
    Missouri State Highway Patrol
    Missouri State Water Patrol
Missouri Consolidated Health Care Plan
Department of Insurance
Missouri Department of Conservation

NOT RESPONDING: Office of Administration - Division of Budget and Planning

Mickey Wilson, CPA
Director
March 30, 2004